

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

**GAIL GALLOWAY,**

**Plaintiff,**

**V.**

**PENNSYLVANIA BOARD OF  
PROBATION AND PAROLE *et al.*,**

## Defendants.

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**CIVIL NO. 1:CV-00-0649**

## ORDER

Before the court is Plaintiff’s Motion for Default Judgment Against Defendant Charles Giornesto (Doc. 99). In that motion, Plaintiff argues that Defendant Giornesto has refused to comply with his requests for discovery and has otherwise “continually violated the Federal Rules of Civil Procedure.” (Doc. 99 at 1.) Even taking Plaintiff’s allegations as true, Plaintiff’s motion must fail because default judgment cannot be granted for a failure to comply with discovery obligations.

Federal Rule of Civil Procedure 55 provides that default judgment is available “[w]hen a party against whom judgment for affirmative relief is sought has failed to plead or otherwise defend . . . [the action].” Fed.R.Civ.P. 55(a). Defendant Giornesto has vigorously defended the captioned matter since its inception, including the filing of two motions to dismiss, an answer, and, most recently, a motion for summary judgment. Thus, while Plaintiff may be entitled to bring a motion to compel discovery if Defendant Giornesto is not complying with his discovery obligations, Plaintiff may not file for default judgment.

Accordingly, Plaintiff's motion for default judgment (Doc. 99) is denied. **IT IS SO ORDERED.**

s/Sylvia H. Rambo  
Sylvia H. Rambo  
United States District Judge

Dated: August 4, 2004.